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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/730,682	12/06/2000	Glen Tindal	CNTW-006/00US	8202

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EXAMINER

PYZOCHA, MICHAEL J

ART UNIT PAPER NUMBER

2137

DATE MAILED: 04/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/730,682

Applicant(s)

TINDAL ET AL.

Examiner

Michael Pyzocha

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 03312005.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

1. Claims 21-31 are pending.
2. Amendment filed 02/18/2005 has been received and considered.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 21-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. The term "substantially all" in claims 21, 24, 26-27, 30 is a relative term which renders the claim indefinite. The term "capability-configuration data" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Because "substantially all" refers to commands that make up the capability-configuration data it renders that term indefinite.

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6. Any claims not specifically addressed are rejected by virtue of their dependencies.

Claim Rejections - 35 USC § 102

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

7. Claims 21, 23-24, 26-28 are rejected under 35 U.S.C. 102(a) as being anticipated by "Initially Configuring the ATM Switch Router" (hereinafter Cisco).

As per claims 21 and 27, Cisco discloses obtaining capability-configuration data for the network device, the capability-configuration data including commands that can be used to configure the network device (see link "ATM Switch Router Command Reference publication" page 2); obtaining actual-configuration data for the network device, wherein the actual-configuration data corresponds to at least a subset of the capability-configuration data (see pages 33-42); and merging the capability-configuration data and the actual-configuration data into a configuration record for the network device; wherein the configuration record is usable to configure and manage the network device (see whole document).

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As per claim 23, Cisco discloses retrieving the actual-configuration data directly from the network device (see pages 33-42).

As per claim 24, Cisco discloses storing in a storage location commands capable of configuring the network device; and including a pointer in the configuration record that points to the storage location (see link "ATM Switch Router Command Reference publication" page 2).

As per claim 26, Cisco discloses storing in the configuration record commands capable of configuring the network device (see whole document).

As per claim 28, Cisco discloses the first configuration data includes commands not corresponding to the current configuration of the network device (see page 2).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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9. Claims 22 and 30-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cisco as applied to claims above, and further in view of Takahashi et al (US 5901320).

As per claims 22 and 30-31, Cisco fails to disclose storing the configuration records in a repository of configuration records.

However, Takahashi et al teaches a repository with configuration files (see column 5 lines 7-15).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Takahashi et al's repository to store the configuration files of Cisco.

Motivation to do so would have been to transfer the configuration files (see column 5 lines 7-67).

10. Claim 25 rejected under 35 U.S.C. 103(a) as being unpatentable over Cisco as applied to claim 21 above, and further in view of Misheski et al (US 5878432).

As per claim 25, Cisco fails to disclose storing previous versions and pointers to the previous versions.

However, Misheski et al teaches such versions and pointers (see column 13 lines 31-45).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Misheski et al's stored versions to store the configuration data of Cisco.

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Motivation to do so would have been to keep track of the version history (see column 13 lines 31-45).

11. Claim 29 rejected under 35 U.S.C. 103(a) as being unpatentable over Cisco as applied to claim 28 above, and further in view of "Common Information Model - A Developer's Perspective" (hereinafter IEEE).

As per claim 29, Cisco fails to disclose the data include CIM data.

However, IEEE teaches CIM (see page 1).

At the time of the invention it would have been obvious to a person of ordinary skill in the art for Cisco's data to include CIM data.

Motivation to do so would have been that CIM is an industry standard.

Response to Arguments

12. Applicant's arguments with respect to claim 21-31 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sanchez (EP

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745929 A1) discloses a network device giving current configuration and capability data.

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Pyzocha whose telephone number is (571) 272-3875. The examiner can normally be reached on 7:00am - 4:30pm first Fridays of the bi-week off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJP



**ANDREW CALDWELL
SUPERVISORY PATENT EXAMINER**